XI-HC—78

(14)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.M.P. No. 330/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

SB: HON'BLE SHRI DHIRENDRA MISHRA, J.

PETITIONER Mehtaru Ram Nishad, son of Dashruram Nishad, aged about 45 years, R/o Village Potapara, P.S. Pithora, District Mahasamund (C.G.)

Vs.

RESPONDENT State of Chhattisgarh, through Police Station Mahasamund, District Mahasamund (C.G.)

5-9-2007

Shri Roop Naik, Advocate appears on behalf of Shri Raghvendra Pradhan, Advocate for the petitioner.

Shri G.K. Beriwal, Addl. Public Prosecutor, for the State.

The petitioner has filed this petition under Section 482 of Cr.P.C. against the order dated 7-5-2007 passed by Chief Judicial Magistrate, Mahasamund in M.J.C. No. 55/2007 whereby on the application under Section 451/457 of Cr.P.C. filed by the petitioner, the trial Court has directed that the vehicle seized in connection with Crime No. 518/2006 for offence under Sections 279, 337 and 338 of I.P.C. be given in interim custody of the petitioner on his furnishing security for a sum of Rs. 40,000/- and further bank guarantee of Rs. 20,000/- of any Nationalized bank and the revision preferred by the petitioner against the above order has also been rejected by the impugned order.

Learned counsel for the petitioner submits that the condition imposed by both the Courts below for giving the vehicle T.V.C. motorcycle on Supurdname is too onerous and for the aforesaid reason, the petitioner could not obtain the vehicle on Supurdnama as he was not able to comply with the conditions imposed by the Trial Court for obtaining the vehicle on

(15)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.M.P.No. 330/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Supurdnama. Reliance is placed on the decision in the matter of **Vishal Agrawal –v- State of Chhattisgarh** reported in **2003(1) CGLJ 71**. He further submits that the vehicle has been seized in connection with offence under Sections 279, 337 and 338 of I.P.C. and the same is not liable for confiscation. If the vehicle is not liable for confiscation, in that case, security cannot be demanded and imposition of onerous condition for return of the vehicle on Supurdnama to the petitioner, in fact, amounts to denial of interim custody. The trial of the criminal offence may take time and it is not desirable that the vehicle should be kept exposed to adverse seasonal conditions resulting in the loss of value of the vehicle and its efficacy.

It is settled law that the powers under Section 451 of Cr.P.C. should be exercised expeditiously and judiciously. The purpose of giving the vehicle in the interim custody to the right person is to protect the interest of rightful owner so that he may not be deprived of the user of the same and at the same time to ensure that the vehicle is produced before the Court at the time of recording of evidence, if so required. The twin purposes can be fulfilled by giving the vehicle in interim custody on reasonable conditions. However, the Courts below have exercised their discretion under Section 451 of the Code in such a manner that virtually amounts to denial of interim custody and therefore, the impugned order passed by learned Additional Sessions Judge confirming the order of the trial Court imposing the condition of furnishing bank guarantee of Rs. 20,000/- in addition to surety of Rs. 40,000/- cannot be sustained.

In the result, the petition is allowed. The impugned order is set aside and it is directed that on petitioner's furnishing security for a sum of Rs.

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक Cr.M.P.No. 330/2007 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	50,000/- to the satisfaction of the trial Court and on a further condition that the petitioner shall not transfer the vehicle to any person and shall produce the same as and when called by the trial Court, the vehicle in question shall be given to the petitioner in interim custody till disposal of the trial. The petition is allowed. **Sd/-** **Dhirendra Mishra** **Judge**	